

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

14-1313

MARCOS F. SANTIAGO,
Petitioner,

v.

WARDEN EBERT,
Respondent.

Case No.

FILED
SCRANTON

JUL 09 2014

PER

DEPUTY CLERK

MEMORANDUM IN SUPPORT OF 2241

NOW Comes Movant, Marcos F. Santiago, pro se, and in support
hereof avers as follows:

BACKGROUND

On February 25, 2013, at around 9:45pm, an inmate at the institution where Movant is currently being housed (i.e., USP Canaan), took the life of Officer Eric Williams. Immediately the entire prison was locked down as a result. Roughly 40 days later Warden Ebert opened the prison back up and all operations returned to normal.

On or about April 10, 2013, as Movant was accustomed to doing before Mr. William's life was wrongfully taken, Movant went to the chapel at the 1:30pm move to attend a Hindhu service along with several other inmates. During the service, to Movant's regret, Movant and his fellow worshipers began talking about the murder of Eric Williams. Since neither Movant nor the other inmates were on the unit where the tragic incident occurred (i.e., C-1), however;

and since Movant never had any interaction with Officer Eric Williams, for which reason he wasn't in any position to comment on the character of Eric Williams¹, the above-mentioned conversation was limited to repeating the little bits of information that we received from other inmates who had been on C-1 when it happened. At no time did Movant or his fellow worshippers say anything disrespectful about Mr. Williams, as not only would that have been inappropriate for us to do during service, but that would have been inappropriate to speak wickedly of a deceased man period!²

About 20 minutes into our service, Mrs. Valley, a BOP employee who works in the chapel, entered into the room in which we were holding our service, and ordered us to stop talking about Eric William's death. Though Movant should have kept his mouth shut at that point, knowing that Mrs. Valley must have been as disturbed by the death of her friend Eric Williams as Movant was when he learned about the violent deaths of some of his friends, Movant

1. Movant has since learned from an inmate who was present at the time of Eric William's murder, that Mr. Williams was a decent person who was "laid back", and who, among other things, studied one of the sciences that Movant is deeply interested in -- that is, Geology.

2. While Movant is not himself a Hindhu but instead of the opinion that all religions are man-made, he attended Hindhu service due to his vegetarian beliefs. Movant does not eat meat due to his belief, inspired by Gandhi of India, that all living creatures are of equal worth/value. Movant also makes every effort to harm not even a fly, a knat, or etc. Not only can the members of Movant's family testify that Movant does not eat meat, but the BOP staff members who have fed and served Movant his meals in USP Canaan from 2009 to now (2014), can testify that Movant always eats Vegie burgers, Tofu, or other non-meat products. By now they must be familiar with Movant's no-meat diet.

responded by saying: "All we're doing is talking; we're not saying anything bad about him."

At this point, Mrs. Valley understandably lost her temper, and began to raise her voice saying: "I don't give a fuck! You have no fucking right talking about his death. No right!...."

Several minutes later two guards came to the chapel and escorted Movant to the Lieutenant's office, and from there Movant was removed to the Special Housing Unit. And a few days later Movant received an incident report from Mrs. Valley, in which she accused me of saying things about Eric Williams that are not only false, but of which I do not wish to repeat at this point.

At the DHO hearing, Movant was found guilty and sentenced to spend 40 days in the SHU, and was deprived of his commissary, phone, and email privileges for 18 months, to be given back on October 22, 2014.

Upon receiving the DHO report Movant appealed to the Regional Director, asking him, among other things, to listen to the tape recording to see if I said any of the things that Mrs. Valley accused Movant of saying. Apparently he did not, for he confirmed the conviction. Again, I appealed to Washington and have never received a response. Hence this 2241.

ARGUMENT

At his disciplinary hearing, Movant was convicted of threatening another with bodily harm, a 200 series shot or incident report. Movant's argument is twofold: 1) He is not guilty of saying the things Mrs. Valley falsely attributed to him. One of the inmates who was also present during the Hindhu service testified at the

hearing

DHO hearing that Movant did not say the words that Mrs. Valley ascribed to him, but he is no longer incarcerated. Another inmate, Cherry, is still incarcerated at this institution (USP Canaan), and he also testified on Movant's behalf at the DHO hearing, and hopefully would still be willing to testify on Movant's behalf if the need ever arises. Furthermore, as Movant was informed, all of the audio recordings in the chapel are recorded, so all the Defendant has to do is procure the audio tape and listen to the entire conversation to see that what Movant is now saying is the truth.

2. Movant did not threaten anyone with bodily harm. Movant swears on his Father's grave that he did not say the words that Mrs. Valley claimed that he said, but if he did say these words it still would not constitute a threat towards another of physically harming them. With all due respect to Mr. Eric Williams, I could not have threatened him with bodily harm since he was no longer alive. And movant wasn't charged with threatening another inmate with bodily harm. So who did Movant threaten with bodily harm, if he did say the words that Mrs. Valley falsely attributed to him (which he most certainly did not, however, say)?

CONCLUSION

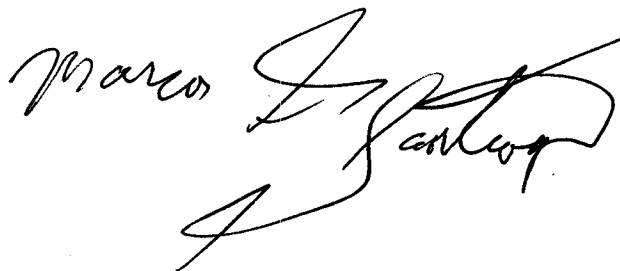
Movant is not interested in seeking sanctions against Mrs. Valley because he perfectly well understands why she lashed out against Movant, although she was wrong. Movant did wrongfully suffer 40 days in the SHU, and 18 months of loss of privileges. But eventually Movant will get his priviledges back, and he is no longer upset at being wrongfully confined in the SHU. Eric Williams, on the other hand, was also wrongfully and brutally murdered. But, unlike Movant, Eric Williams can never get his life back.

Therefore, looking at these facts from a philosophical point of few, Movant doesn't consider it right for him to complain or to hold anything against Mrs. Valley. However, Movant does wish to have this write-up report expunged, as it is a very nasty write up, and anyone who reads it will become seriously prejudiced against Movant. Example: When Movant was in the SHU for the incident in question, he requested his property. A week later when an officer came to bring Movant to another part of the SHU where he was to receive his property, the officer asked Movant in a friendly manner: "What are you back here for?" When Movant couldn't respond due to the sensitivity of the incident report, the officer read the paper in his hand and, upon discovering what Movant was in the SHU for, his disposition completely changed from a sunny one to a dark and stormy one. He said: "You're not getting your radio. You shouldn't get anything...I have no mercy for you..." I tried in vain to convince him that the incident report against me was false. This is just one example among many others.

WHEREFORE, Movant prays that this Honorable Court expunge the incident report that Mrs. Valley issued against Movant in April of 2013.

Respectfully submitted,

Marcos F. Santiago

A handwritten signature in black ink, appearing to read 'Marcos F. Santiago', with a stylized flourish at the end.